IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.2656 OF 2006

Mr.Shyam Sunder Agarwal ..Petitioner

Vs.

M/s.Rahul Organic Ltd. & Ors. ..Respondents

...

Mr.Sunit Mohalkar, advocate for Petitioner
Mr.Rakesh Pandey advocate for Respondent no.1
Ms.S.V.Gajare A.P.P. for the State

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CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : FEBRUARY 23, 2007

P.C.

1. Heard the learned advocate for the petitioner, the learned advocate for the respondent no.1-original complainant and the learned A.P.P. for the State.

2. The petitioner is seeking quashing of proceedings relating to Criminal Case No.35/S/2003 which is pending before the Court of 2nd Metropolitan Magistrate, Mazgaon, Mumbai. In the said case, process has been issued against the petitioner under Sections 406, 409 and 448 of IPC

and under Section 630 of Companies Act. The learned advocate for the petitioner submitted that the learned Magistrate committed an error in issuing process and the said process deserves to be set aside. If the process issued against the petitioner is set aside, the proceedings in respect of the petitioner, would come to an end.

3. However, for the reasons recorded in the order passed by this Court in the case of **V.K.Jain Vs. P.V.Padode; 2005(3) Mh.L.J.778,** I am of the opinion that the petitioner has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the petitioner prefers a revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the petitioner to prefer the necessary revision before the concerned Sessions Court. The learned advocate for the petitioner makes a statement that the necessary revision will be preferred within four weeks from today. In view of this statement, the trial Court

shall not proceed with the trial for a period of four weeks. The learned counsel appearing for respondent no.1-original complainant fairly states that he will not raise any objection to the delay in filing the revision.

5. On the necessary revision being preferred by the petitioner before the concerned Sessions Court, the concerned Sessions Court shall dispose of the matter on merits after hearing the necessary parties.

6. Writ Petition is disposed of.

[V.K.TAHILRAMANI,J.]